

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

*Electronically Filed*

ELIZABETH JAROS

v.

“KENTUCKY FRIED CHICKEN”; KFC  
CORPORATION; AND  
YUM! BRANDS, INC.

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CASE NO. 4:17-CV-03583

**NOTICE OF REMOVAL**

Defendants, KFC Corporation (“KFCC”), incorrectly named as “Kentucky Fried Chicken,” and Yum! Brands, Inc. (“Yum”), by counsel, state as follows in support of its removal of this action.

1. There was an action commenced which is now pending in the District Court of the 240th Judicial District Fort Bend County, Texas, Cause No. 2017-DCV-246467, in which the above named Elizabeth Jaros is the Plaintiff and KFCC and Yum are the Defendants.<sup>1</sup> (*See* Plaintiff’s First Amended Original Petition, attached at Exhibit 1, and November 8, 2017 Order Granting Transfer of Venue to Fort Bend County, Texas, attached in Exhibit 5).

2. Plaintiff is now and was at the time of the commencement of this action, and at all times pertinent hereto, a citizen and resident of the state of Texas. (*See* Exhibit 1, at ¶ II).

3. Defendant, KFCC, is now and was at the time of the commencement of this action and at all times pertinent hereto, a corporation organized and incorporated under the laws of Delaware with its principal place of business located in Louisville, Kentucky. For these reasons,

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<sup>1</sup> Defendant, Yum! Brands, Inc., did not own, control, possess, or manage the restaurant at issue in this lawsuit. Therefore, Yum! Brands, Inc. specifically denies that it is liable in the capacity in which it is sued.

KFCC is now and was at the time of the commencement of this action, and at all times pertinent hereto, a citizen of the states of Delaware and Kentucky and not a citizen of Texas.

4. Defendant, Yum, is now and was at the time of the commencement of this action and at all times pertinent hereto, a corporation organized and incorporated under the laws of North Carolina with its principal place of business located in Louisville, Kentucky. For these reasons, Yum is now and was at the time of the commencement of this action, and at all times pertinent hereto, a citizen of the states of North Carolina and Kentucky and not a citizen of Texas.

5. This is a personal injury case. In Plaintiff's state court Amended Petition, Plaintiff claims she was injured as a result of tripping on a sidewalk during a visit to a Kentucky Fried Chicken restaurant located at 3501 Highway 6, Sugar Land, Texas 77478. (*See* Exhibit 1, at pg. 1).

6. In Plaintiff's Amended Petition, Plaintiff sought damages in "excess of \$50,000 but no less than \$70,000." (*See* Exhibit 1, at pg. 4). Based on the foregoing, this case was not removable on the face of the Complaint.

7. On September 8, 2017, the Defendants served Plaintiff with a set of Request for Disclosures. (*See* Exhibit 2, Request for Disclosures served on Plaintiff). On October 23, 2017, Plaintiff served her responses to Defendants Request for Disclosures. In her responses, Plaintiff indicated that she sought treatment from at least three healthcare providers, incurred a total of \$65,041.46 from one provider and was still receiving information on bills from the other two medical providers. (Exhibit 3, Plaintiff's Responses to Request for Disclosures). Plaintiff also stated that she is seeking damages for past and future medical expenses, past and future physical impairment, and pain and suffering. *Id.* Furthermore, Plaintiff alleged that she was unable to

work and was seeking lost wages. *Id.* As a result of Plaintiff's responses, Defendants' counsel sent a letter to Plaintiff's counsel on November 8, 2017 asking if Plaintiff would seek more than \$75,000 at trial. (Exhibit 4, November 8, 2017 Letter). Although Defendants requested a response by November 16, 2017, Plaintiff's counsel has not responded. Based on the foregoing, the Defendants believe that amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

8. This action involves a controversy between citizens of different states, as the Plaintiff is a resident and citizen of Texas, while KFC is a resident of Delaware and Kentucky and Yum is a resident of North Carolina and Kentucky. The United States District Court is given original jurisdiction in a case in which the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different states. 28 U.S.C. § 1332; 28 U.S.C. § 1446.

9. As it was not immediately apparent from the face of Plaintiff's Amended Petition that this action was removable, this action has been filed within thirty days of receipt of Plaintiff's Responses to Defendants Request for Disclosures and the date upon which Defendants' counsel gave Plaintiff's counsel to indicate if Plaintiff was seeking more than \$75,000, which indicated the case was removable pursuant to 28 U.S.C. § 1446(b)(3).

10. This Notice is filed within one year of the filing of Plaintiff's Complaint. Notice of removal is, therefore, timely filed pursuant to 28 U.S.C. § 1446(c).

11. Copies of all process, pleadings and orders served on KFCC and Yum as of the date of the filing of this Notice of Removal are attached hereto as Exhibit 6.

12. Additionally, pursuant to Local Rule 81, Defendants attach the Civil Docket Sheet (Exhibit 7) and a list of all counsel of record, including addresses, telephone numbers, and parties represented (Exhibit 8).

13. Written notice of the filing of this notice of removal and exhibits hereto were served upon Plaintiff's counsel via U.S. Mail on November 21, 2017.

WHEREFORE, Defendants, KFCC and Yum, pray that they may affect the removal of this action from the District Court of the 240<sup>th</sup> Judicial District Fort Bend County, Texas to this Court and for all other appropriate procedures.

Respectfully submitted,

**HAWKINS PARNELL THACKSTON & YOUNG<sup>LLP</sup>**

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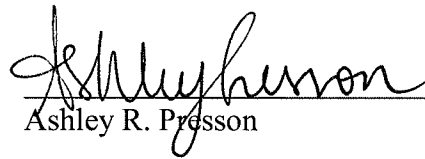
**ATTORNEYS FOR DEFENDANT  
KFC CORPORATION AND YUM! BRANDS,  
INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of November, 2017, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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**ATTORNEY FOR PLAINTIFF  
ELIZABETH JAROS**

  
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